

REMARKS

Claims 1, 3, 5 through 10 and 15 are currently pending in the application.

This amendment is in response to the Office Action of December 15, 2003.

Information Disclosure Statement(s)

Applicants note the filing of an Information Disclosure Statement herein on November 24, 2003 and note that a copy of the PTO-1449 was not returned with the outstanding Office Action. Applicants respectfully request that the information cited on the PTO-1449 be made of record herein.

35 U.S.C. § 102(e) Anticipation Rejections

Anticipation Rejection Based on Kepler (U.S. Patent 6,037,671)

Claims 1, 5, 8 through 10 and 15 are rejected under 35 U.S.C. § 102(e) as being anticipated by Kepler (U.S. Patent 6,037,671).

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

35 U.S.C. § 103(a) Obviousness Rejections

Obviousness Rejection Based on Kepler (U.S. Patent 6,037,671)

Claims 6 and 7 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kepler (U.S. Patent 6,037,671). Applicants respectfully traverse this rejection, as hereinafter set forth.

Applicants further submit that to establish a *prima facie* case of obviousness under 35 U.S.C. § 103 three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Third, the cited prior art reference must teach or

suggest all of the claim limitations. Furthermore, the suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Applicants' disclosure.

Allowable Subject Matter

Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants have rewritten claim 3 in independent form. Therefore, claim 3 is allowable.

After carefully considering the cited prior art, the rejections, and the Examiner's comments, Applicants have amended the claimed invention to clearly distinguish over the cited prior art by amending independent claims 1, 5, and 8 to include the subject matter of objected to claim 3. Accordingly, presently amended independent claims 1, 5, and 8 cannot either be anticipated by Kepler under 35 U.S.C. § 102 or rejected as being unpatentable over Kepler under 35 U.S.C. § 103 because Kepler neither identically describes each and every element of the presently claimed invention in the same detail as contained in the claim nor teaches or suggests all the claim limitations as set forth in the presently claimed inventions. Therefore, presently amended independent claims 1, 5, and 8 are allowable as well as the dependent claims therefrom.

In summary, Applicants submit that claims 1, 3, 5 through 10 and 15 are clearly allowable over the cited prior art for the reasons set forth herein.

Applicants request the allowance of claims 1, 3, 5 through 10 and 15 and the case passed for issue.

Respectfully submitted,



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